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Letter dated 20 June 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/377).

The Counter-Terrorism Committee has received the attached supplementary report from Belarus, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 20 June 2002 from the Permanent Representative of Belarus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I should like to transmit to you herewith a supplementary report to the Counter-Terrorism Committee submitted in response to the letter of 22 March 2002 (see enclosure).

At the same time, I wish to inform you that the detailed information with regard to paragraph 4 of resolution 1373 (2001) and an organizational chart of our Government's administrative machinery to implement the resolution will be submitted later on.

The Government of the Republic of Belarus stands ready to provide the Committee with additional reports or information that may be requested by the Committee.

I should be grateful if you would have the attached report circulated as a document of the Security Council.

(*Signed*) Sergei S. **Ling**
Permanent Representative of the
Republic of Belarus to the United Nations

Enclosure

[Original: Russian]

Answers to the questions of the Security Council Counter-Terrorism Committee regarding the report of the Republic of Belarus on implementation of Security Council resolution 1373 (2001)

Subparagraph 1 (a)

At the national level, the legal basis for the counter-terrorist efforts of the competent bodies of the Republic of Belarus is as follows:

- Act of the Republic of Belarus of 3 January 2002 "On counter-terrorism";
- Criminal Code of the Republic of Belarus;
- Code of Criminal Procedure of the Republic of Belarus;
- Decree No. 185 of the President of the Republic of Belarus of 31 March 1998 enacting the Statute on coordination of efforts of special sub-units of law enforcement agencies and other State bodies to combat organized crime and corruption;
- Directive No. 272 (by order of the President) of 23 September 1999 on supplementary measures for ensuring public security and preventing extremist and terrorist acts in the territory of the Republic of Belarus;
- Decision No. 10 of the Board of Directors of the National Bank of the Republic of Belarus of 28 January 2002 on the suspension of credit and debit transactions in respect of accounts belonging to terrorists, terrorist organizations and persons associated therewith.

The Act of the Republic of Belarus "On counter-terrorism" specifies the legal and organizational bases for efforts to combat terrorism; the set of measures for preventing, identifying, suppressing and detecting offences linked to terrorism; the scope and terms of reference of actors directing efforts to combat terrorism; and the legal bases for the conduct of counter-terrorist operations.

In accordance with article 4 of the Act, Belarus, in conformity with international treaties, cooperates in the field of counter-terrorism with other States, with their law enforcement agencies and special services, and with the international organizations undertaking efforts to combat terrorism.

Guided by its concern for maintaining the security of the individual, society and the State, Belarus prosecutes in its territory persons involved in terrorist activities, including in cases where the terrorist acts were planned or took place outside Belarus but were directed against its interests and in other cases provided for in the Republic's international treaties.

Subparagraph 1 (b)

Activities linked to the wilful provision or collection of funds by nationals of Belarus or in its territory in support of terrorism are considered in Belarusian legislation to constitute participation, in the form of aiding and abetting, in the

crimes referred to in articles 124 (Terrorist acts against representatives of foreign States), 125 (Attacks on institutions enjoying international protection), 126 (International terrorism) and 289 (Terrorism) of the Criminal Code. Under article 16 of the Code, a person who has facilitated the commission of a crime, the supply of the means of commission or the provision of other assistance (advice, instructions, information, instruments and means of commission, elimination of obstacles, etc.) is considered an accomplice.

Thus, a person who has committed acts referred to in the question under consideration is liable to prosecution on the basis of article 289 (or another relevant article of the Criminal Code) and article 16 of the Criminal Code.

Subparagraph 1 (c)

Questions concerning the freezing of bank accounts are regulated by Belarusian legislation. The attachment or forfeiture of funds or other assets held in a bank and belonging to individuals and entities may occur following:

- A court decision or ruling;
- A decree issued by a body of inquiry or pre-trial investigation in cases covered by the Code of Criminal Procedure;
- A decision of the tax authorities in cases covered by Belarusian legislation.

It is possible, at the request of another country, to freeze funds held in Belarus and belonging to individuals or entities associated with a terrorist act under the procedure stipulated for executing requests for legal assistance in accordance with a treaty, if such a treaty has been concluded with the requesting State.

Subparagraph 1 (d)

Under article 3, paragraph 11, of the Act of the Republic of Belarus "On counter-terrorism", knowingly financing or otherwise assisting a terrorist organization or group constitutes terrorist activity.

In addition, the National Bank of the Republic of Belarus has adopted Decision No. 10 of 28 January 2002 on the suspension of credit and debit transactions in respect of accounts belonging to terrorists, terrorist organizations and persons associated therewith.

Under article 9 of the Act of the Republic of Belarus "On counter-terrorism", State bodies, other organizations and citizens must provide assistance to actors directing efforts to combat terrorism, fulfil their requests and observe the legal regulations in areas in which counter-terrorism operations are being conducted.

The Act of the Republic of Belarus of 19 July 2000 "On measures to prevent the legalization of funds obtained by illegal means" makes it the duty of persons carrying out financial transactions to report financial transactions of an illegal nature to the law enforcement agencies. In accordance with the Act, breaches of this requirement are prosecutable offences under the administrative and criminal law of Belarus.

Currently, there is no law in Belarus regulating the activities of alternative money transfer organizations.

Subparagraph 2 (a)

The normative-legal basis for the regulation of questions concerning the sale, distribution and transit of arms through the territory of Belarus includes:

- Act of the Republic of Belarus of 6 January 1998 "On export controls";
- Act of the Republic of Belarus of 29 December 1998 "On State regulation of foreign trade activities";
- Act of the Republic of Belarus of 13 November 2001 "On weapons";
- Decision No. 27 of the Council of Ministers of the Republic of Belarus of 10 January 1998 "On the enhancement of State control over the transfer across the customs border of the Republic of Belarus of special goods, labour and services";
- Decision No. 552 of the Council of Ministers of the Republic of Belarus of 24 April 2002 enacting the Statute on the transit through the territory of the Republic of Belarus of goods intended for military use.

Subparagraph 2 (b)

The law enforcement agencies and special services of the Republic of Belarus participate, with the corresponding services of the countries of the Commonwealth of Independent States (CIS), in an early warning system intended to prevent the commission of terrorist acts on the basis of agreements concluded between them.

Subparagraph 2 (c)

The draft decree of the President of the Republic of Belarus "On the introduction of amendments and additions to the Statute on the procedure for consideration of questions concerning the granting of asylum to aliens and stateless persons", prepared by the Ministry of Internal Affairs of Belarus, is currently with the Government bodies concerned for coordination. This decree provides for the refusal of asylum to persons involved in terrorist activities.

Subparagraph 2 (d)

Article 6 of the Criminal Code provides for the prosecution of persons who have committed offences outside Belarus, in particular:

1. Nationals of Belarus or stateless persons habitually resident in Belarus who have committed offences outside Belarus are liable to prosecution if the acts committed by them are offences in the State in whose territory they were committed and if they have not been prosecuted in that State. When such persons are sentenced, the penalty is fixed within the limits of the sanction stipulated in the [relevant] article of the Criminal Code but must not exceed the upper limit of the sanction provided by the law of the State in whose territory the offence was committed.

2. Foreign nationals or stateless persons not habitually resident in Belarus who have committed offences outside Belarus are liable to prosecution in cases involving the commission of particularly serious offences directed against the interests of Belarus.

3. The Criminal Code is applied independently of the criminal law of the place in which the act was committed where the following offences are concerned:

(1) Genocide (article 127);

(2) Crimes against the security of humankind (article 128);

(3) Production, stockpiling or distribution of prohibited instruments of war (article 129);

(4) Ecocide;

(5) Use of a weapon of mass destruction (article 134);

(6) Violation of the laws and custom of war (article 135);

(7) Criminal violation of the norms of international humanitarian law in time of armed conflict (article 136);

(8) Inaction or issuance of a criminal order in time of armed conflict (article 137);

(9) Other offences committed outside Belarus which are prosecutable on the basis of a binding international treaty of Belarus.

4. In the cases provided for in sections 2 and 3 of the aforementioned article 6, persons are liable to prosecution under the Criminal Code if they have not been convicted in another State and are brought to justice in the territory of Belarus.

Subparagraph 2 (e)

The articles of the Criminal Code of Belarus establish criminal liability for the commission of the following crimes connected with terrorism:

Article 124
Acts of terrorism against representatives of a foreign State

1. Acts of violence against representatives of a foreign State or an international organization and the kidnapping or holding of such persons against their will for the purpose of provoking international tension or hostilities are punishable by a term of imprisonment of between 5 and 15 years.

2. The murder of a representative of a foreign State or international organization for the purpose of provoking international tension or hostilities is punishable by a term of imprisonment of between 10 and 25 years, by life imprisonment, or by death.

Article 126
International terrorism

The organization or execution in the territory of a foreign State of explosions, arson or other acts with a view to causing loss of life or physical injury, destroying or damaging buildings, installations, means of transport, means of communication, or other property for the purpose of provoking international tension or hostilities or destabilizing the internal situation in a foreign State, or assassinating or causing physical injury to a political or public figure of a foreign State, or damaging their

property for the same purpose (international terrorism) are punishable by a term of imprisonment of between 10 and 20 years, life imprisonment or death.

Article 132
The recruitment, training, financing and use of mercenaries

The recruitment, training, financing, assisting and use of mercenaries for the purpose of participating in military action against a foreign State or preventing the lawful enjoyment of the right of peoples to self-determination, recognized by international law, are punishable by a term of imprisonment of between 7 and 15 years.

Article 285
Establishing or participating in a criminal organization

1. Activity for the purpose of establishing a criminal organization or leading a criminal organization or its structural components is punishable by a term of imprisonment of between 5 and 12 years, either with or without the confiscation of property.

2. Participation in a criminal organization in any other manner is punishable by a term of imprisonment of between three and six years, with or without confiscation of property.

3. Actions specified in paragraph 1 or 2 of this article committed by officials exercising their official authority are punishable by a term of imprisonment of between 10 and 15 years, with or without confiscation of property.

Article 292
Terrorism

1. The execution of explosions, arson or other actions endangering human life, causing physical injury, causing large-scale damage or other serious consequences for the purpose of intimidating the public, influencing the taking of decisions by public bodies, or preventing political or other public activity (terrorism) are punishable by a term of imprisonment of between 8 and 15 years.

2. Terrorism committed by a group of persons acting in conspiracy, whether entailing damage on a major scale or other serious consequences, is punishable by a term of imprisonment of between 8 and 20 years.

3. The actions specified in paragraph 1 or 2 of this article entailing loss of life or executed by an organized group are punishable by a term of imprisonment of between 8 and 20 years, by life imprisonment or by death.

Note. Any person who has participated in preparations for the actions specified in this article shall be absolved of criminal liability for the said crime if such a person, by giving a timely warning to the State authorities or otherwise, prevents an act of terrorism.

Article 290
Threatening to commit an act of terrorism

1. A threat to cause explosions, arson or other actions endangering human life, inflicting physical injury, causing large-scale damage or involving other serious

consequences for the purpose of intimidating the public, influencing the taking of decisions by public bodies, or preventing political or other public activities (threatening to commit an act of terrorism) is punishable by up to six months detention, or by up to five years restriction of liberty or by imprisonment for the same period.

2. A threat to commit an act of terrorism, made repeatedly, either by a group of persons acting in conspiracy or entailing large-scale damage or other serious consequences, is punishable by a term of imprisonment of between three and eight years.

Article 291
Hostage-taking

1. The seizure or holding of a person as a hostage, combined with the threat to murder such person or to cause him physical injury, or the continued holding of such a person with a view to coercing a State, international organization, corporate entity or individual or group of persons to take or refrain from taking any action as a condition for the release of the hostage (hostage-taking) is punishable by a term of imprisonment of between 5 and 10 years.

2. The taking of hostages:

(a) By a group of persons acting in conspiracy;

(b) Repeatedly;

(c) Involving the use, during the seizure or holding of the person, of force endangering the life or health of the victim;

(d) In the knowledge that the hostage is a minor;

(e) In the knowledge on the part of the offender that the hostage is a pregnant woman;

(f) Where two or more hostages are involved;

(g) For mercenary motives or for reward

is punishable by a term of imprisonment of between 6 and 12 years, with or without confiscation of property.

3. The actions specified in paragraph 1 or 2 of this article, committed by an organized group or causing loss of human life through negligence or giving rise to other serious consequences, either deliberately or through negligence, are punishable by a term of imprisonment of between 10 and 15 years, with or without confiscation of property.

Note. A person who releases a hostage, either voluntarily or at the request of the authorities, shall be absolved of criminal liability under this article.

Article 292
Seizure of buildings and installations

1. The seizure or holding of buildings, installations, roads and means of transport or communication, accompanied by the threat to destroy or damage them or by a threat to kill or cause physical injury to persons for the purpose of forcing a State or

other entity, a body corporate or an individual or group of persons to commit or refrain from committing any action as a condition for not carrying out the threat is punishable by detention for a term of between three and six months, or by restriction of liberty for up to five years, or by a term of imprisonment for the same period.

2. Those actions, where committed by an organized group, whether causing loss of human life through negligence or giving rise to large-scale damage or other serious consequences, shall be punishable by a term of imprisonment of between 7 and 12 years.

Article 311
The hijacking of a train, aircraft or vessel or their seizure for purposes of hijacking

1. The hijacking of a train, aircraft or vessel or their seizure for purposes of hijacking is punishable by restriction of liberty for up to five years or by a term of imprisonment for the same period.

2. The same actions, if committed by a group of persons acting in conspiracy, whether involving the use or threat of force, or causing major damage, are punishable by restriction of freedom for between three and five years or by a term of imprisonment of between three and seven years.

3. The actions specified in paragraph 1 or 2 of this article, if committed by an organized group or causing loss of human life through negligence or giving rise to serious physical injury, is punishable by a term of imprisonment of between 5 and 15 years.

Subparagraph 2 (f)

The cooperation of Belarusian law enforcement agencies with the law enforcement agencies of foreign States in combating terrorism takes place on the basis of bilateral international agreements (see the section on paragraph 3 (subparagraphs (a) and (e)) and paragraph 4 in the report of the Republic of Belarus on the implementation of Security Council resolution 1373 (2001)).

In addition, issues of the provision of legal assistance to other countries on criminal matters are regulated by the following international agreements to which Belarus is a party:

- The Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993 (within the framework of the Commonwealth of Independent States);
- The Agreement between Belarus and Lithuania on legal assistance and legal relations in civil, family and criminal matters, of 20 October 1992;
- The Agreement between Belarus and China on legal assistance in civil and criminal matters, of 11 January 1993;
- The Agreement between Belarus and Latvia on legal assistance and legal relations in civil, family and criminal matters, of 21 February 1994;
- The Treaty between the Union of Soviet Socialist Republics and Finland concerning the provision of legal protection and legal assistance in civil,

family and criminal cases, of 11 August 1978 (succession established by decree of the Supreme Council of Belarus of 11 April 1994);

- The Agreement between Belarus and Poland on legal assistance and legal relations in civil, family, labour and criminal matters, of 26 October 1994;
- The Treaty between Belarus and China on extradition, of 22 June 1995;
- The Agreement between Belarus and Viet Nam on legal assistance and legal relations in civil, family, labour and criminal matters, of 14 September 2000.

Work is currently under way in Belarus on the drafting of a bill on international cooperation concerning the provision of legal assistance in criminal matters. It is intended that the law in question will regulate issues of the provision of legal assistance in criminal matters in the absence of relevant international agreements to which Belarus is a party and will determine the procedure for the provision of such assistance if it is not provided for by an international agreement.

Subparagraph 2 (g)

Coordination of the activity of entities directly engaged in combating terrorism, including State bodies participating in combating terrorism within the limits of their competence, is assigned by article 6 the Act of the Republic of Belarus "On counter-terrorism" to the Interdepartmental Commission on Counter-terrorism of the Security Council of Belarus. A draft decree of the President of Belarus on matters relating to the Interdepartmental Commission on Counter-terrorism is currently in preparation, and will regulate the mechanism for interdepartmental cooperation on issues falling within the competence of various organs of the State administration.

Agreements on cooperation have also been concluded between Belarusian law enforcement organs at the departmental level. Interdepartmental working groups have been established which draw up joint plans for cooperation, supervise their implementation and coordinate issues of information exchange and the conduct of joint operations. Depending on how closely the interests of various departments coincide, additional agreements are concluded between some of them on cooperation not only at the departmental level, but also at the level of structural sub-units. Thus the Belarusian customs authorities cooperate more closely at the level of structural sub-units with the organs of internal affairs and border forces, State security and financial tracking units.

Subparagraph 3 (d)

In accordance with the international treaties it has ratified in the area of combating terrorism, Belarus enacts national legislation which permits full discharge of the obligations arising out of the provisions of the relevant international treaties.

The treaties Belarus has concluded on extradition include a provision to the effect that individuals are extradited to face criminal charges for acts which under the legislation of the States parties are crimes for the commission of which provision is made for punishment in the form of deprivation of freedom for a period of more than one year or a more severe penalty.

Belarus is currently conducting the domestic procedures for ratification of the International Convention for the Suppression of the Financing of Terrorism.

Subparagraph 3 (g)

There is no extradition law in Belarus.

The extradition of a person who has committed a crime is regulated by article 7 of the Criminal Code of Belarus, which provides that:

1. A national of Belarus may not be extradited to a foreign State except as provided by international treaties to which Belarus is a party;

2. A foreign national or stateless person who has committed a crime outside Belarus and is located in the territory of Belarus may be extradited to a foreign State to face criminal charges or serve a sentence in accordance with an international treaty to which Belarus is a party;

3. In the absence of such an international treaty, the persons referred to in subparagraph 2 above may be extradited to a foreign State on the basis of the principle of reciprocity, on condition that the requirements of Belarusian legislation are met.

The Belarusian bill on international cooperation in the provision of legal assistance in criminal matters makes provision for regulating the justification and procedure for extradition. It is also planned that the law in question will regulate issues of the extradition of criminals to foreign States in the absence of a bilateral extradition treaty.

One of the grounds for refusal to extradite provided for in the above-mentioned bill is that a person whose extradition is requested is to be prosecuted in the requesting State on the grounds of his political convictions. The same grounds are provided for in the extradition treaty with China.

In the treaties with Poland and Viet Nam on the provision of legal assistance, the fact that the act for which extradition is requested is regarded as a political offence constitutes grounds for refusal to extradite.